

requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.¹⁴

The proposed rule change is intended to fulfill some of the undertakings contained in the order issued by the Commission relating to the settlement of an enforcement action against the NYSE for failure to enforce compliance with Section 11(a) and Rule 11a-1 of the Act and NYSE rules 90, 95, and 111.¹⁵ The SEC Order found that the NYSE's floor broker regulatory program suffered from two major deficiencies: (1) The NYSE failed to take appropriate action to police for profit-sharing or other performance-based compensation of independent floor brokers; and (2) the NYSE suspended its routine independent floor broker surveillance for extensive periods of time.¹⁶ In addition, although not part of the findings in the SEC Order, the Commission's initial and amended complaints and the Office of the United States Attorney for the Southern District of New York's indictment charged, among other things, that independent floor brokers profited from the information they acquired on the NYSE floor by trading ahead of customer orders and, in some instances, engaging in frontrunning in violation of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Act and rule 10b-5 thereunder.

As part of the SEC Order, the NYSE agreed and was ordered to continue the development and implementation of an electronic floor system ("Phase I Floor Audit Trail") that will be used to enter details related to orders before these orders can be represented on the trading floor. To accomplish this undertaking, the NYSE was ordered to submit a proposed rule change setting forth the complete details and specifications of the Phase I Floor Audit Trail, and to fully implement the Phase I Floor Audit Trail nine months after Commission approval of the proposal. This proposed rule change addresses this undertaking. The Commission believes that, by strengthening the Exchange's ability to examine and surveil members' activities on the Exchange Floor, the proposed

rule change is consistent with and is an important step toward satisfying certain of the undertakings relating to oversight of the trading floor.

The proposal requires that members and member organizations enter the details of an order before they can represent or execute the order on the floor of the Exchange. Among other things, the member must electronically time stamp the order before representing or executing it on the floor and must record any changes in the terms of the order or cancellations of the order.¹⁷ The Commission finds that requiring members and member organizations to electronically record the details of an order before representing or executing the order on the floor will enhance the Exchange's ability to deter and detect violations of the securities laws and the Exchange's rules, such as trading ahead of customer orders or frontrunning. Specifically, the rule enhances the NYSE's ability to track the handling of an order from receipt until execution. For example, this information can be used to reconstruct markets to determine whether an independent floor broker traded ahead of a customer order. The Commission also finds that enhancing the surveillance of members' activities on the floor is consistent with the Exchange's responsibility, under Section 6(b)(5) of the Act, to prevent fraudulent and manipulative acts and practices.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-NYSE-98-25) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43700; File No. SR-NYSE-00-48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Reduce the Maximum Original Listing Fee and To Impose a New Allocation Fee on Exchange Specialists

December 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4² thereunder, notice hereby is given that on November 29, 2000, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statements of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to reduce the maximum original listing fee applicable to companies listing on the Exchange and to recapture the lost revenue through an allocation fee imposed on Exchange specialists. The proposed rule change is available at the principal office of the NYSE and at the Commission's Public Reference Room.³

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1)

² 17 CFR 240.19b-4.

³ According to the NYSE, the proposed specialist allocation fee would not appear in the NYSE's rules or price list. Therefore, with respect to this part of the filing, there is no proposed rule text as such. The NYSE will notify affected members of the new fee via an information circular. Telephone conversation between James F. Duffy, Senior Vice President and Associate General Counsel, NYSE, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on December 11, 2000.

¹⁴ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ See note 10, *supra*.

¹⁶ *Id.*

¹⁷ The Commission notes that in a pending proposed rule change, the NYSE is proposing to require that members synchronize business clocks to record the date and time of any event that the Exchange requires to be recorded. See SR-NYSE-99-51 (proposal to implement Phase II of the Floor Audit Trail System).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose.

Original listing fees are levied on the number of shares issued and outstanding at the time of listing plus a one time special charge of \$36,800 for a newly listed company. Currently, the NYSE caps original listing fees at \$500,000. To accommodate prospective listed companies with a lower maximum fee while continuing to maintain revenue at a level suitable to support the Exchange's programs, the NYSE is proposing to reduce the original listing fee cap to \$250,000.⁴

The reduction in listing fee revenues resulting from reduction of the maximum listing fee will be offset in total by implementation of a new Specialist Allocation Fee. Newly listed companies are allocated to a specialist unit through the Exchange's allocation process. Specialists apply for the allocation of new listings, and, upon listing, companies have the choice of one of two options for allocation of their security. The first option is to authorize the Exchange's Allocation Committees to determine who will be the company's specialist. Under the second option, the Allocation Committee selects a pool of between three to five specialists from those who have applied, and the listing company then interviews each of the candidates to determine who will be its specialist.

The new Specialist Allocation Fee will be levied on the specialist unit that has been selected, under either option one or option two, to be the specialist for the new listing. The fee will be equal to the difference between the original listing fee calculated under the new \$250,000 cap and the fee that would have been applicable under a \$500,000 cap. Accordingly, the Specialist Allocation Fee itself will be a maximum of \$250,000. The following examples demonstrate how this fee will be applied in different circumstances:

Company A:	
Shares Outstanding	100 million
Calculated Fee Based on Per Share Rate.	\$417,100
Listed Company Original Fee (Capped).	\$250,000
Specialized Allocation Fee	\$167,100
Company B:	
Shares Outstanding	50 million

Calculated Fee Based on Per Share Rate.	\$242,100
Listed Company Original Fee (Capped).	\$242,000
Specialized Allocation Fee	\$0
Company C:	
Shares Outstanding	130 million
Calculated Fee Based on Per Share Rate.	\$522,100
Listed Company Original Fee (Capped).	\$250,000
Specialized Allocation Fee	\$250,100

Both the reduction in the listing fee cap and the new Specialist Allocation Fee will be implemented January 1, 2000.

2. Statutory Basis

The NYSE believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)⁵ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The NYSE does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to Section 19(b)(3)(A) of the Act⁶ and subparagraph (f)(6) of Rule 19b-4 under the Act.⁷ Pursuant thereto the rule change may become operative 30 days after November 29, 2000, the date of filing. At any time within 60 days of filing, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-00-48 and should be submitted by January 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 3511]

Culturally Significant Objects Imported for Exhibition Determinations: "William Blake"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "William Blake," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of

⁴ The reduced maximum original listing fee will be reflected in an amendment to Sections 902.02 (domestic companies) and 902.04 (non-U.S. companies) of the NYSE Listed Company Manual.

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 19b-4(f)(6).

⁸ 17 CFR 200.30-3(a)(12)